

ESTTA Tracking number: **ESTTA438505**

Filing date: **10/31/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	John F. Whalen d/b/a Appleseed Press Book Publishers
Granted to Date of previous extension	10/30/2011
Address	12 Port Farm Road Kennebunkport, ME 04046 UNITED STATES
Correspondence information	David M. Perry Attorney Blank Rome, LLP One Logan Square Philadelphia, PA 19103 UNITED STATES perry@blankrome.com, stefanski@blankrome.com Phone:215-569-5767

Applicant Information

Application No	85203635	Publication date	05/03/2011
Opposition Filing Date	10/31/2011	Opposition Period Ends	10/30/2011
Applicant	Harry N. Abrams, Inc. 115 West 18th Street New York, NY 10011 UNITED STATES		

Goods/Services Affected by Opposition

Class 016. All goods and services in the class are opposed, namely: Children's books
Class 041. All goods and services in the class are opposed, namely: Book publishing

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	Opposers marks consist of APPLESEED; APPLESEED PRESS; APPLESEED PRESS BOOK PUBLISHERS; and APPLESEED		

	PRESS BOOK PUBLISHERS and Design
Goods/Services	Sale of books and book publication and packaging services

Attachments	Abrams Appleseed Notice of Opposition.pdf (7 pages)(168787 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/David M. Perry/
Name	David M. Perry
Date	10/31/2011

John F. Whalen, :
d/b/a Appleseed Press Book Publishers, :
a U.S. citizen, : Mark: ABRAMS APPLESEED
:
Opposer, : Serial No.: 85/203,635
:
v. : Opposition No.: _____
:
Harry N. Abrams, Inc., :
a New York corporation, :
:
Applicant. :
:

125004.00001/12141968v.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application of Harry N. Abrams, Inc.

Application No.: 85/203,635

Filed: December 22, 2010

Mark: ABRAMS APPLESEED

John F. Whalen,	:
d/b/a Appleseed Press Book Publishers	:
a U.S. Citizen	:
	:
Opposer,	: Serial No.: 85/203,635
	:
v.	: Opposition No.: _____
	:
Harry N. Abrams, Inc.,	:
a New York corporation	:
	:
Applicant.	:
	:

Hon. Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Attn.: Trademark Trial and Appeal Board

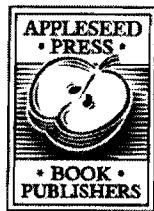
NOTICE OF OPPOSITION

Madam:

Opposer John F. Whalen, d/b/a Appleseed Press Book Publishers, an individual U.S. Citizen residing at 12 Port Farm Road, Kennebunkport, ME 04046, believes that he would be damaged by the registration of the mark ABRAMS APPLESEED, shown in Application Serial No. 85/203,635, and hereby opposes the same under the provision of Section 13 of the Trademark Act of July 5, 1946, as amended, 15 U.S.C. § 1063.

As grounds of opposition, it is alleged that:

1. Since long prior to the filing date of Applicant's application herein opposed, Opposer has made continuous and extensive use of the marks APPLESEED, APPLESEED PRESS, and APPLESEED PRESS BOOK PUBLISHERS, including, without limitation,



in the design (collectively, the APPLESEED PRESS Mark), in connection with the sale of books and book publication and packaging services (hereinafter, the "Goods and Services").

2. Opposer is the owner of all rights, title and interests in and to the APPLESEED PRESS Mark and has maintained priority rights in its APPLESEED PRESS Mark in connection with the Goods and Services since at least as early as 2008.

3. Through extensive and continuous use of its APPLESEED PRESS Mark, Opposer has established substantial goodwill in the mark in connection with the Goods and Services.

4. Opposer's extensive promotion and use of its APPLESEED PRESS Mark since at least as early as 2008, has caused customers, prospective purchasers, and the public generally to immediately associate the APPLESEED PRESS Mark with Opposer and to expect the high-quality Goods and Services bearing the APPLESEED PRESS Mark to have a connection with, or association with, Opposer.

**APPLICANT'S MARK IS CONFUSINGLY
SIMILAR TO THE APPLESEED PRESS MARK OWNED BY OPPOSER**

5. On December 22, 2010, Applicant filed an application for registration of the mark ABRAMS APPLESEED (hereinafter "Applicant's Mark"), as used to identify Class 16 goods and Class 41 services, specifically: children's books and children's book publishing (as amended on October 25, 2011). Applicant's Mark was published for opposition in the Official Gazette of May 3, 2010.

6. Applicant's basis for filing was intended use in commerce, pursuant to Section 1(b) of the Lanham Act.

7. Opposer's use of its APPLESEED PRESS Mark predates Applicant's filing date.

8. Applicant's Mark, ABRAMS APPLESEED, is confusingly similar in appearance, sound, connotation and commercial impression to Opposer's APPLESEED PRESS Mark, the mark under which Opposer has traded since 2008.

9. The goods and services with which Applicant intends to use Applicant's Mark are identical or closely related to Goods and Services provided under Opposer's APPLESEED PRESS Mark.

10. The intended use and registration of Applicant's Mark to identify its goods and services is likely to cause confusion, mistake and deception as to the source, origin, sponsorship or association of the services, and will injure Opposer.

11. Any defects, objections or faults found with the goods or services offered, sold or rendered by Applicant under Applicant's Mark, because of the false association with Opposer, would inflict upon and seriously injure the reputation of Opposer.

12. The grant of a Certificate of Registration to Applicant for the subject mark would be inconsistent with and in derogation of Opposer's prior rights and would therefore cause damage and injury to Opposer and deception of and confusion to the public.

For the reasons set forth in the foregoing paragraphs one through twelve, Opposer believes that it would be damaged by the

registration of Applicant's Mark, and thus Applicant should be denied registration of the mark.

WHEREFORE, Opposer prays that this opposition be sustained and that Application Serial No. 85/203,635 be refused registration.

Respectfully submitted,

JOHN F. WHALEN
d/b/a APPLESEED PRESS BOOK
PUBLISHERS

Date: October 31, 2011

By:

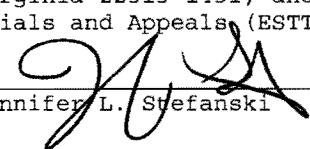


David M. Perry
Jennifer L. Stefanski
Its Attorneys

BLANK ROME LLP
ONE LOGAN SQUARE
PHILADELPHIA, PA 19103
(215) 569-5767

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this correspondence is addressed to the Trademark Trial and Appeal Board, Hon. Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451, and is being deposited via the Electronic System for Trademark Trials and Appeals (ESTTA) on October 31, 2011.

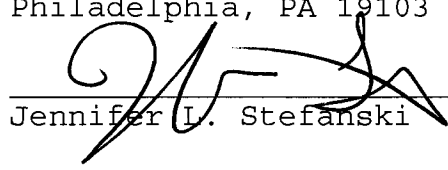


Jennifer L. Stefanski

CERTIFICATE OF SERVICE

I, Jennifer L. Stefanski, do hereby certify that I have on this 31st day of October, 2011, mailed by U.S. First Class mail, the foregoing **NOTICE OF OPPOSITION** to the following:

Jordan LaVine, Esquire
Flaster/Greenberg P.C.
1600 JFK Blvd., 2nd Floor
Philadelphia, PA 19103



Jennifer L. Stefanski